

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

GEORGIA SMITH,	)	
	)	CASE NO. 4:11CV250
Plaintiff,	)	
	)	JUDGE BENITA Y. PEARSON
v.	)	
	)	MAGISTRATE JUDGE
MICHAEL J. ASTRUE,	)	KATHLEEN B. BURKE
COMMISSIONER OF SOCIAL	)	
SECURITY,	)	
	)	
Defendant.	)	<b>ORDER</b>
	)	[Resolving <a href="#">ECF No. 13</a> ]

This is an action for judicial review of the decision of the Commissioner of Social Security denying supplemental security income to Plaintiff. This matter has been referred to the undersigned for a Report and Recommendation pursuant to Local Rule 72.2(b)(1).

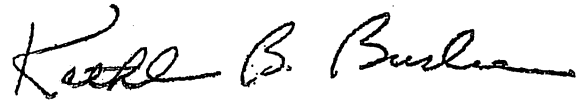
Plaintiff has filed a Motion for Summary Judgment. [ECF No. 13](#).

The use of summary judgment motions in an action for judicial review of the Commissioner's decision is "neither necessary nor technically correct." [Kenney v. Heckler, 577 F. Supp. 214, 216 \(N.D. Ohio 1983\)](#). Summary judgment motions, as defined by [Fed.R.Civ.P. 56](#), contemplate the use of evidentiary material in the form of affidavits, depositions, answers to interrogatories, and admissions. In Social Security appeals, however, the Court may "look no further than the pleadings and the transcript of the record before the agency," and may not admit additional evidence. [Id.](#) "Therefore, although summary judgment motions are customarily used . . . such motions merely serve as vehicles for briefing the parties' positions, and are not a prerequisite to the Court's reaching a decision on the merits." [Id.](#)

Accordingly, Plaintiff's Motion for Summary Judgment ([ECF No. 13](#)) is denied without prejudice. However, the Court will consider the brief in support of the motion filed by Plaintiff ([ECF No. 14](#)), as well as the Defendant's brief, as the parties' briefs on the merits of this appeal.

IT IS SO ORDERED.

Dated: September 20, 2011

A handwritten signature in black ink, appearing to read "Kathleen B. Burke". The signature is fluid and cursive, with a horizontal line drawn underneath it.

**KATHLEEN B. BURKE**  
United States Magistrate Judge